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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,191

04/17/2006

Rikiya Ishiguro

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EXAMINER

MONFELDT, SARAH M

ART UNIT

PAPER NUMBER

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,191	<b>Applicant(s)</b> ISHIGURO, RIKIYA	
	<b>Examiner</b> SARAH M. MONFELDT	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**  
**Status of Claims**

1. This action is in reply to the Amendment/Response filed on 20 December 2007.
2. Claim 1 was amended.
3. Claims 1-7 are currently pending and have been examined.

**Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-7 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Vague & Indefinite:**

- i. Claim 1 recites the limitation "first index", "second index", "third index", "selection index". It is unclear as to how these terms are calculated and the specification does not provide guidance as to how to obtain such indices. Appropriate clarification and correction is required.
- ii. Claim 3 recites the limitation "magnitude of the desire" is a relative term. The specification does not provide guidance as to what this term is attempting to encompass. Appropriate correction and clarification is required.
- iii. Claim 5 recites the limitation "correcting the first index". It is unclear how this correction is calculated. Appropriate correction and clarification is required.
- iv. Claim 6 recites the limitation "correcting the second index". Appropriate correction and clarification is required.
- v. Claim 7 recites the limitation "correcting the third index based on ratings of quality of goods or level of service". It is unclear as to what this recitation is attempting to encompass. The specification does not provide guidance as to how this correction takes place. Furthermore, there is no discussion as to what the meaning of the term "ratings" is. Does this mean the quality of goods for the second trader is expected to change within the timeframe of making the request/bid by the first trader? If this is the case, how would the change in quality of goods affect the order that is processed by the second trader since the first trader has already made a choice as to the second trader? Appropriate correction and clarification is required.

**Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 2002/0046157) in view of Schreiber (WO 02/17194).

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

**Claim 1 –**

As per claim 1, Solomon discloses *a commercial transaction management system for managing commercial transaction between a plurality of first traders and a plurality of second traders as parties involved, based on network communication with a first terminal device of the first trader placing order of goods, and a second terminal device of the second trader receiving order of goods* having the limitations of:

- *a first processing unit for determining a first index according to cost needed for commercial transaction with the first trader for each of the second trader, based on a part of or all of a placed order content of the first trader, upon recognizing the placed order content including category, quantity, desired delivery date, and priority rank of the ordered goods by the first trader based on the communication with the first terminal device; (see at least paragraphs [0031], [0210], [0233], [0245], [0284], [0334])*
- *a second processing unit for determining a second index according to time needed for commercial transaction with the first trader for each of the second trader, based on a part of or all of the placed order content of the first trader, upon recognizing the placed order content of the*

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*first trader based on the communication with the first terminal device; (see at least paragraph [0031], [0046], [0284])*

- *a third processing unit for determining a third index according to quality or level, upon recognizing the quality of goods or the level of service of each of the second trader; (see at least paragraph [0031], [0233], [0245], [0284])*
- *a fourth unit for determining a selection index for selecting the second trader, based on the first index, the second index, and the third index determined by the first processing unit, the second processing unit, and the third processing unit, respectively, and for determining the second trader receiving order of goods from the first trader, based on the selection index; (see at least paragraph [0034], [0259], [0261], [0265], [0266])*
- *a fifth unit for determining a received order content including the category, quantity, delivery date, and priority rank of the ordered goods received by the second trader, based on the placed order content by the first trader recognized by the first or the second processing unit; and (see at least paragraph [0265])*
- *a communication processing unit for transmitting the received order content determined by the fifth processing unit to the second terminal device of the second trader selected by the fourth processing unit. (see at least paragraph [0265])*

*Solomon does not explicitly disclose the following limitations:*

- *desired delivery date of the ordered goods by the first trader based on the communication with the first terminal device*

Schreiber teaches desired delivery date of the ordered goods by the first trader based on the communication with the first terminal device (see at least page 22, lines 18-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Solomon to include the delivery date field as taught by Schreiber. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Solomon in this way since by the buyer being able to define a range of dates allows for flexibility and for comparison with sellers who have overlapping delivery dates (see at least page 19, lines 17-24 of Schreiber).

## **Claim 2 –**

As per claim 2, Solomon in view of Schreiber teach *the commercial transaction management system* of claim 1 as described above. Solomon, at least at [0208], further discloses a *commercial transaction management system for managing commercial transaction between a*

*plurality of first traders and a plurality of second traders as parties involved, based on network communication with a first terminal device of the first trader placing order of goods, and a second terminal device of the second trader receiving order of goods having the limitations of:*

- *wherein the fourth processing unit determines the selection index based on the first index, the second index, and the third index, upon recognizing an order placing policy of the first trader indicating the importance to the first trader of the cost needed for the commercial transaction, the time needed for the commercial transaction, and the quality of the goods or the level of the service, and upon weighing the first index, the second index, and the third index in accordance with the order placing policy of the first trader.*

**Claim 3 –**

As per claim 3, Solomon in view of Schreiber teach *the commercial transaction management system of claim 1 as described above. Solomon, at least at paragraph [0336], further discloses a commercial transaction management system for managing commercial transaction between a plurality of first traders and a plurality of second traders as parties involved, based on network communication with a first terminal device of the first trader placing order of goods, and a second terminal device of the second trader receiving order of goods having the limitations of:*

- *wherein the fourth processing unit determines the selection index based on an order receiving policy of the second trader indicating the magnitude of the desire by the second trader to have commercial transaction with each of the first trader, upon recognizing the order receiving policy of the second trader based on the communication with the second terminal device.*

**Claim 4 –**

As per claim 4, Solomon in view of Schreiber teach *the commercial transaction management system of claim 1 as described above. Schreiber, at least at page 19, lines 17-24, further discloses a commercial transaction management system for managing commercial transaction between a plurality of first traders and a plurality of second traders as parties involved, based on network communication with a first terminal device of the first trader placing order of goods, and a second terminal device of the second trader receiving order of goods having the limitations of:*

- *further comprising a sixth processing unit for recognizing a production plan of goods prepared by the second terminal device, based on the communication with the second terminal device to which the placed order content is transmitted by the communication processing unit, and for recognizing the delivery date to the first trader of the goods produced by the second trader in accordance with the production plan,*

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- *wherein the communication processing unit transmits the delivery date recognized by the sixth processing unit to the first terminal device.*

The motivation for making this modification to the teachings of Solomon is the same as that set forth above, in the rejection of Claim 1.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 2002/0046157) in view of Schreiber (WO 02/17194), as applied to claims 1-4 above, and further in view of Dudle et al. (US 5570291).

**Claim 5 –**

As per claim 5, Solomon in view of Schreiber teach *the commercial transaction management system* of claim 1 as described above. Solomon in view of Schreiber do not explicitly disclose the following limitations:

- *further comprising a first correction processing unit for correcting the first index based on an order receiving status or a production progress status of the goods by the second trader, upon recognizing the order receiving status or the production progress status of the second trader based on the communication with the second terminal device.*

Dudle et al. teach further comprising a first correction processing unit for correcting the first index based on an order receiving status or a production progress status of the goods by the second trader, upon recognizing the order receiving status or the production progress status of the second trader based on the communication with the second terminal device (see at least col. 16, ll. 34-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Solomon in view of Schreiber to include the planning bill of materials subsystem audit as taught by Dudle et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Solomon in view of Schreiber in this way since the planning bill of materials subsystem audit allows for a more accurate estimate (see at least col. 16, ll. 44-47 of Dudle et al.).

**Claim 6 –**

As per claim 6, Solomon in view of Schreiber teaches *the commercial transaction management system* of claim 1 as described above. Solomon in view of Schreiber do not explicitly disclose the following limitations:

- further comprising a second correction processing unit for correcting the second index based on an order receiving status or a production progress status of the goods by the second trader, upon recognizing the order receiving status or the production progress status of the second trader based on the communication with the second terminal device.

Dudle et al. teach further comprising a second correction processing unit for correcting the second index based on an order receiving status or a production progress status of the goods by the second trader, upon recognizing the order receiving status or the production progress status of the second trader based on the communication with the second terminal device (see at least col. 16, ll. 34-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Solomon in view of Schreiber to include the planning bill of materials subsystem audit as taught by Dudle et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Solomon in view of Schreiber in this way since the planning bill of materials subsystem audit allows for a more accurate estimate (see at least col. 16, ll. 44-47 of Dudle et al.).

#### **Claim 7 –**

As per claim 7, Solomon in view of Schreiber teaches *the commercial transaction management system* of claim 1 as described above. Solomon in view of Schreiber do not explicitly disclose the following limitations:

- *further comprising a third correction processing unit for correcting the third index based on ratings of quality of goods or level of service for each of the second trader by each of the first trader, upon recognizing the ratings of each of the second trader by each of the first trader based on the communication with the first terminal unit.*

Dudle et al. teach further comprising a third correction processing unit for correcting the third index based on ratings of quality of goods or level of service for each of the second trader by each of the first trader, upon recognizing the ratings of each of the second trader by each of the first trader based on the communication with the first terminal unit (see at least col. 16, ll. 34-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Solomon in view of Schreiber to include the planning bill of materials subsystem audit as taught by Dudle et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Solomon in view of Schreiber in this way since the planning bill of materials subsystem audit allows for a more accurate estimate (see at least col. 16, ll. 44-47 of Dudle et al.).



***Response to Arguments***

10. Applicant's arguments filed 20 December 2007 have been fully considered but they are not persuasive for at least the following reasons:

- a. In the arguments filed 20 December 2007 Applicant points to specific sections of the specification where the rejected terms find support. It is respectfully pointed out that the terms which Applicant refers to were rejected for being vague and indefinite under 112, second paragraph and not for lack of support, i.e. the Examiner did not object to the specification for antecedent basis issues with regard to where the claims find support. The claims recite terms which are directed to indices in which the specification discloses the following:

first index	$a_{ij}$
second index	$b_{ij}$
third index	$c_{jn}$
selection index	$K_{ij}$

Based on the above table the Examiner notes that each of the above indices is indicated as being part of a formula or calculation or algorithm, however the specification does not provide guidance to how these indices are actually calculated. Therefore, in view of this, the 112, second paragraph rejection remains with regard to the claims being vague and indefinite.

- b. In the arguments filed 20 December 2007 Applicant argues that "magnitude of the desire" is not relative. The Examiner respectfully disagrees; the specification does not provide a basis for how desire is measured or a way of ascertaining the metes and bounds of the term. Furthermore, desire is not quantifiable since every person has a different way of determining or interpreting what constitutes desire.

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- c. In the arguments filed 20 December 2007 Applicant argues one of ordinary skill in the art would understand the metes and bounds of the invention with respect to "correcting the third index based on ratings of quality of goods or level of service". The Examiner respectfully disagrees, as recited by the claim a "correction" takes place to the third index  $c_{jn}$ , as pointed out above, the recitation of index indicates some sort of calculation takes place, however the specification is silent to how these calculations take place and does not provide any working examples to further understand what exactly is occurring within these calculations/corrections. Based on this, the claims must be given their broadest reasonable interpretation since the specification does not provide an explicit definition for each of the indices.
- d. In the arguments filed 20 December 2007 Applicants argues Solomon does not disclose "*a fourth unit for determining a selection index...*" and "*a fifth processing unit...*". The Examiner respectfully disagrees and reminds Applicant that the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, however other passages and figures may apply. Furthermore, Applicant, in preparing the response, should consider fully the entire reference. As such, the Examiner maintains that [0265] discloses the "fifth procession unit...", and points Applicant to at least [0031] which discloses "...at least two s-INAs response with an initial ask price, as well as alternative prices for different product or service features, quality, quantity, delivery times, etc." which was referenced with respect to the limitation "a first processing unit...". The Examiner also maintains that Solomon discloses "a fourth unit for determining a selection index..." since the specification does not provide an explicit definition for this recitation and therefore must be given it broadest interpretation. Furthermore, the specification is silent as to how the selection index is determined, as it appears that some algorithm must take place for the selection to occur.

Claims 1-7 remain rejected.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH M. MONFELDT whose telephone number is (571)270-1833. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm (EST) ALT Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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